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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/804,334	03/12/2001	Daniel Gasser	33389	1149
116	7590	08/16/2004	EXAMINER	
PEARNE & GORDON LLP 1801 EAST 9TH STREET SUITE 1200 CLEVELAND, OH 44114-3108			COLLINS, SCOTT M	
			ART UNIT	PAPER NUMBER
			2145	

DATE MAILED: 08/16/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/804,334

Applicant(s)

GASSER ET AL.

Examiner

Scott M. Collins

Art Unit

2145

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 12 March 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_

### DETAILED ACTION

1. Claims 1-14 examined.
2. It is hereby acknowledged that the following papers have been received and placed of record in the file: Preliminary Amendment filed with the application, Declaration on 07/16/2001, and Foreign Priority Papers on 08/20/2001.

### *Claim Rejections - 35 USC § 101*

3. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.
4. Claims 4-10, and 12-14 provide for the use of a method, but, since the claim does not set forth any steps involved in the method/process, it is unclear what method/process applicant is intending to encompass. A claim is indefinite where it merely recites a use without any active, positive steps delimiting how this use is actually practiced. These claims are written as method claims, but they depend from a system or device. A single statutory type should be used throughout a claim tree.
5. Claims 4-10, and 12-14 are rejected under 35 U.S.C. 101 because the claimed recitation of a use, without setting forth any steps involved in the process, results in an improper definition of a process, i.e., results in a claim which is not a proper process claim under 35 U.S.C. 101. See for example *Ex parte Dunki*, 153 USPQ 678 (Bd.App. 1967) and *Clinical Products, Ltd. v. Brenner*, 255 F. Supp. 131, 149 USPQ 475 (D.D.C. 1966).

***Claim Rejections - 35 USC § 112***

6. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

7. Claims 7, 9, and 11 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. Nowhere in the specification is the term “Super-Daemon” used or explained. If the term simply refers to two daemons or services working in unison, then applicant should recognize that this is common in the art of multi-computer data processing.

8. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

9. The claims are generally narrative and indefinite, failing to conform with current U.S. practice. They appear to be a literal translation into English from a foreign document and are replete with grammatical and idiomatic errors.

10. Claims 4-10, and 12-14 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. These claims are written as method claims, but they depend from a system or device. A single statutory type should be used throughout a claim tree.

***Claim Objections***

11. Claims 7, 8, and 12 are objected to because of the following informalities: the use of the parenthetical phrase “(for example, COM – files)” does not limit the claims. Appropriate correction is required.

12. Claims 1, 3, and 9 are objected to because of the following informalities: the use of the phrase “resp.” is unknown. Appropriate correction is required.

13. Claim 14 is objected to because of the following informalities: the use of “and/or” is ambiguous and defaults to the non-inclusive “or” which does not require all limitations. Appropriate correction is required.

***Claim Rejections - 35 USC § 102***

14. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

15. Claims 1-14 are rejected under 35 U.S.C. 102(a) as being anticipated by Hartman, European Patent Application Number 98117261.2; EP 0902381 A2 (herein referred to as Hartman).

16. In view of the rejections above, the claims are rejected herein below as interpreted to the best understanding of the examiner.

17. Referring to claim 1, Hartman has taught a system for the visualization of information in a client-server context characterized by one or more administration units which organize and maintain the visualization information, which are driven automatically by one or more

Art Unit: 2145

visualization units, in order to collect the product information for the visualization and to play it back automatically (Hartman figure 2; abstract; paragraphs 3 and 15).

18. Referring to claim 2, Hartman has taught the system wherein the administration units communicate as suppliers in the Internet as a server with clients for the visualization through channels and these terminals as units automatically obtaining and processing the data on offer are assigned to one or more servers (Hartman figure 2; abstract; paragraphs 3 and 15).

19. Referring to claim 3, Hartman has taught the system wherein the servers are service provider servers and the clients are computer-assisted visualization installations at points of sale and that they exchange data through channels (Hartman figure 2; abstract; paragraphs 3 and 15 where the client computer 220 displays the visualization information and acts as a point of sale.).

20. Referring to claim 4, Hartman has taught the method for the organization of the administration units, wherein the administration of the visualization information is organized and maintained in readiness for the call-up in the form of a fixed data model by means of linked tables (Hartman figure 2; abstract; paragraphs 3 and 15. It is not clear what applicant refers to by “linked tables”, but the web pages use linked tables to present the visualization information and the databases are sets of tables linked together and working cohesively.).

21. Referring to claim 5, Hartman has taught the method wherein the data model contains at least the tables for the definition of the channels, for the definition of the product program content and for the definition of the article master (Hartman figure 2; abstract; paragraphs 3 and 15).

22. Referring to claim 6, Hartman has taught the method wherein the server through a web outlet with a hierarchic structure is organized in such a manner, that for the clients – depending

Art Unit: 2145

on the authorization – the data is released for downloading (Hartman figure 2; abstract; paragraphs 3 and 15).

23. Referring to claims 7-9, 11 and 12, Hartman has taught the method wherein a program association of Daemons in the form of program files, that a control daemon fed by a master application drives a publish daemon which drives a display daemon; a connection daemon; and a pull daemon; whereby the control daemon, the publish daemon, and the display daemon have a time-dependent starting function (Hartman figure 2, server engine 211; paragraph 15 where daemons are simply service programs running on the server that automatically respond to client requests – whether they be for displaying content, connecting to the client, or controlling the server's actions as a whole. In addition, the responses are indeed time-dependent as they generally start within a short period of time after the client's request. Inherently, when a server engine responds to a web request, the server controller publishes/sends the displayable data across a connection.).

24. Referring to claim 10, Hartman has taught the system consisting of:

- a. at least one server for the administration of the administration units organizing and providing visualization information (Hartman figure 2; abstract; paragraphs 3 and 15); and
- b. at least one client for the visualization units automatically carrying-out the visualization, whereby the client can automatically request from the server in order to collect the product information maintained in readiness for the visualization and in order to play it back (Hartman figure 2; abstract; paragraphs 3 and 15).

Art Unit: 2145

25. Referring to claim 13, Hartman has taught the data storage medium containing the program for the implementation of the method (Hartman figure 2; abstract; paragraphs 3 and 15).

26. Referring to claim 14, Hartman has taught the data storage medium containing the visualization unit for the utilization (Hartman figure 2; abstract; paragraphs 3 and 15).

***Conclusion***


27. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Barros, U.S. Patent Number 6,307,573.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Scott M. Collins whose telephone number is 703.305.7865. The examiner can normally be reached on Mon.-Thurs. 7:30 am - 5:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David A Wiley can be reached on 703.308.5221. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

smc  
August 3, 2004

  
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